



# House of Representatives

General Assembly

**File No. 296**

*January Session, 2005*

House Bill No. 6782

*House of Representatives, April 13, 2005*

The Committee on Environment reported through REP. ROY of the 119th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

## **AN ACT CONCERNING LONG ISLAND SOUND PROGRAMS AND THE DEFINITION OF THE COASTAL AREA.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-91 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2005*):

3 The General Assembly finds that:

4 (1) The waters of Long Island Sound and its coastal resources,  
5 including tidal rivers, streams and creeks, wetlands and marshes,  
6 intertidal mudflats, beaches and dunes, bluffs and headlands, islands,  
7 rocky shorefronts, and adjacent shorelands form an integrated natural  
8 estuarine ecosystem which is both unique and fragile;

9 (2) Development of Connecticut's coastal area has been extensive  
10 and has had a significant impact on Long Island Sound and its coastal  
11 resources;

12 (3) The coastal area represents an asset of great present and  
13 potential value to the economic well-being of the state, and there is a  
14 state interest in the effective management, beneficial use, protection  
15 and development of the coastal area;

16 (4) The waterfront of Connecticut's major urban ports is  
17 underutilized and many existing urban waterfront uses are not directly  
18 dependent on proximity to tidal or coastal waters;

19 (5) The coastal area is rich in a variety of natural, economic,  
20 recreational, cultural and aesthetic resources, but the full realization of  
21 their value can be achieved only by encouraging further development  
22 in suitable areas and by protecting those areas unsuited to  
23 development;

24 (6) The key to improved public management of Connecticut's  
25 coastal area is coordination at all levels of government and  
26 consideration by municipalities of the impact of development on both  
27 coastal resources and future water-dependent development  
28 opportunities when preparing plans and regulations and reviewing  
29 municipal and private development proposals; and

30 (7) Unplanned population growth and economic development in  
31 the coastal area have caused the loss of living marine resources,  
32 wildlife and nutrient-rich areas, and have endangered other vital  
33 ecological systems and scarce resources.

34 Sec. 2. Section 22a-92 of the general statutes is repealed and the  
35 following is substituted in lieu thereof (*Effective October 1, 2005*):

36 (a) The following general goals and policies are established by this  
37 chapter:

38 (1) To insure that the development, preservation or use of the land  
39 and water resources of the coastal area proceeds in a manner  
40 consistent with the capability of the land and water resources to  
41 support development, preservation or use without significantly  
42 disrupting either the natural environment or sound economic growth;

43       (2) To preserve and enhance coastal resources in accordance with  
44 the policies established by chapters 439, 440, 446i, 446k, 447, 474 and  
45 477;

46       (3) To give high priority and preference to uses and facilities which  
47 are dependent upon proximity to the water or the shorelands  
48 immediately adjacent to marine and tidal waters;

49       (4) To resolve conflicts between competing uses on the shorelands  
50 adjacent to marine and tidal waters by giving preference to uses that  
51 minimize adverse impacts on natural coastal resources while  
52 providing long term and stable economic benefits;

53       (5) To consider in the planning process the potential impact of  
54 coastal flooding and erosion patterns on coastal development so as to  
55 minimize damage to and destruction of life and property and reduce  
56 the necessity of public expenditure to protect future development from  
57 such hazards;

58       (6) To encourage public access to the waters of Long Island Sound  
59 by expansion, development and effective utilization of state-owned  
60 recreational facilities within the coastal area that are consistent with  
61 sound resource conservation procedures and constitutionally  
62 protected rights of private property owners;

63       (7) To conduct, sponsor and assist research in coastal matters to  
64 improve the data base upon which coastal land and water use  
65 decisions are made;

66       (8) To coordinate the activities of public agencies to insure that state  
67 expenditures enhance development while affording maximum  
68 protection to natural coastal resources and processes in a manner  
69 consistent with the state plan for conservation and development  
70 adopted pursuant to part I of chapter 297;

71       (9) To coordinate planning and regulatory activities of public  
72 agencies at all levels of government to insure maximum protection of  
73 coastal resources while minimizing conflicts and disruption of

74 economic development; and

75 (10) To insure that the state and the coastal municipalities provide  
76 adequate planning for facilities and resources which are in the national  
77 interest, as defined in section 22a-93, as amended by this act, and to  
78 insure that any restrictions or exclusions of such facilities or uses are  
79 reasonable. Reasonable grounds for the restriction or exclusion of a  
80 facility or use in the national interest shall include a finding that such a  
81 facility or use: (A) May reasonably be sited outside the coastal  
82 boundary; (B) fails to meet any applicable federal and state  
83 environmental, health or safety standard; or (C) unreasonably restricts  
84 physical or visual access to tidal or coastal waters. This policy does not  
85 exempt any nonfederal facility in use from any applicable state or local  
86 regulatory or permit program nor does it exempt any federal facility or  
87 use from the federal consistency requirements of Section 307 of the  
88 federal Coastal Zone Management Act.

89 (b) In addition to the policies stated in subsection (a) of this section,  
90 the following policies are established for federal, state and municipal  
91 agencies in carrying out their responsibilities under this chapter:

92 (1) Policies concerning development, facilities and uses within the  
93 coastal [boundary] area are: (A) To manage uses in the coastal  
94 [boundary] area through existing municipal planning, zoning and  
95 other local regulatory authorities and through existing state structures,  
96 dredging, wetlands, and other state siting and regulatory authorities,  
97 giving highest priority and preference to water-dependent uses and  
98 facilities in shorefront areas; (B) to locate and phase sewer and water  
99 lines so as to encourage concentrated development in areas which are  
100 suitable for development; and to disapprove extension of sewer and  
101 water services into developed and undeveloped beaches, barrier  
102 beaches and tidal wetlands except that, when necessary to abate  
103 existing sources of pollution, sewers that will accommodate existing  
104 uses with limited excess capacity may be used; (C) to promote,  
105 through existing state and local planning, development, promotional  
106 and regulatory authorities, the development, reuse or redevelopment

107 of existing urban and commercial fishing ports giving highest priority  
108 and preference to water dependent uses, including but not limited to  
109 commercial and recreational fishing and boating uses; to disallow uses  
110 which unreasonably congest navigation channels, or unreasonably  
111 preclude boating support facilities elsewhere in a port or harbor; and  
112 to minimize the risk of oil and chemical spills at port facilities; (D) to  
113 require that structures in tidal wetlands and tidal or coastal waters be  
114 designed, constructed and maintained to minimize adverse impacts on  
115 coastal resources, circulation and sedimentation patterns, water  
116 quality, and flooding and erosion, to reduce to the maximum extent  
117 practicable the use of fill, and to reduce conflicts with the riparian  
118 rights of adjacent landowners; (E) to disallow the siting within the  
119 coastal boundary of new tank farms and other new fuel and chemical  
120 storage facilities which can reasonably be located inland and to require  
121 any new storage tanks which must be located within the coastal  
122 boundary to abut existing storage tanks or to be located in urban  
123 industrial areas and to be adequately protected against floods and  
124 spills; (F) to make use of rehabilitation, upgrading and improvement of  
125 existing transportation facilities as the primary means of meeting  
126 transportation needs in the coastal area; (G) to encourage increased  
127 recreational boating use of tidal or coastal waters, where feasible, by (i)  
128 providing additional berthing space in existing harbors, (ii) limiting  
129 non-water-dependent land uses that preclude boating support  
130 facilities, (iii) increasing state-owned launching facilities, and (iv)  
131 providing for new boating facilities in natural harbors, new protected  
132 water areas and in areas dredged from dry land; (H) to protect coastal  
133 resources by requiring, where feasible, that such boating uses and  
134 facilities (i) minimize disruption or degradation of natural coastal  
135 resources, (ii) utilize existing altered, developed or redevelopment  
136 areas, (iii) are located to assure optimal distribution of state-owned  
137 facilities to the state-wide boating public, and (iv) utilize ramps and  
138 dry storage rather than slips in environmentally sensitive areas; (I) to  
139 protect and where feasible, upgrade facilities serving the commercial  
140 fishing and recreational boating industries; to maintain existing  
141 authorized commercial fishing and recreational boating harbor space

142 unless the demand for these facilities no longer exists or adequate  
143 space has been provided; to design and locate, where feasible,  
144 proposed recreational boating facilities in a manner which does not  
145 interfere with the needs of the commercial fishing industry; and (J) to  
146 require reasonable mitigation measures where development would  
147 adversely impact historical, archaeological, or paleontological  
148 resources that have been designated by the state historic preservation  
149 officer.

150 (2) Policies concerning coastal land and water resources within the  
151 coastal [boundary] area are: (A) To manage coastal bluffs and  
152 escarpments so as to preserve their slope and toe; to discourage uses  
153 which do not permit continued natural rates of erosion and to  
154 disapprove uses that accelerate slope erosion and alter essential  
155 patterns and supply of sediments to the littoral transport system; (B) to  
156 manage rocky shorefronts so as to insure that development proceeds in  
157 a manner which does not irreparably reduce the capability of the  
158 system to support a healthy intertidal biological community; to  
159 provide feeding grounds and refuge for shorebirds and finfish, and to  
160 dissipate and absorb storm and wave energies; (C) to preserve the  
161 dynamic form and integrity of natural beach systems in order to  
162 provide critical wildlife habitats, a reservoir for sand supply, a buffer  
163 for coastal flooding and erosion, and valuable recreational  
164 opportunities; to insure that coastal uses are compatible with the  
165 capabilities of the system and do not unreasonably interfere with  
166 natural processes of erosion and sedimentation, and to encourage the  
167 restoration and enhancement of disturbed or modified beach systems;  
168 (D) to manage intertidal flats so as to preserve their value as a nutrient  
169 source and reservoir, a healthy shellfish habitat and a valuable feeding  
170 area for invertebrates, fish and shorebirds; to encourage the restoration  
171 and enhancement of degraded intertidal flats; to allow coastal uses that  
172 minimize change in the natural current flows, depth, slope,  
173 sedimentation, and nutrient storage functions and to disallow uses that  
174 substantially accelerate erosion or lead to significant despoliation of  
175 tidal flats; (E) to preserve tidal wetlands and to prevent the  
176 despoliation and destruction thereof in order to maintain their vital

177 natural functions; to encourage the rehabilitation and restoration of  
178 degraded tidal wetlands and where feasible and environmentally  
179 acceptable, to encourage the creation of wetlands for the purposes of  
180 shellfish and finfish management, habitat creation and dredge spoil  
181 disposal; (F) to manage coastal hazard areas so as to insure that  
182 development proceeds in such a manner that hazards to life and  
183 property are minimized and to promote nonstructural solutions to  
184 flood and erosion problems except in those instances where structural  
185 alternatives prove unavoidable and necessary to protect existing  
186 inhabited structures, infrastructural facilities or water dependent uses;  
187 (G) to promote, through existing state and local planning,  
188 development, promotional and regulatory programs, the use of  
189 existing developed shorefront areas for marine-related uses, including  
190 but not limited to, commercial and recreational fishing, boating and  
191 other water-dependent commercial, industrial and recreational uses;  
192 (H) to manage undeveloped islands in order to promote their use as  
193 critical habitats for those bird, plant and animal species which are  
194 indigenous to such islands or which are increasingly rare on the  
195 mainland; to maintain the value of undeveloped islands as a major  
196 source of recreational open space; and to disallow uses which will  
197 have significant adverse impacts on islands or their resource  
198 components; (I) to regulate shoreland use and development in a  
199 manner which minimizes adverse impacts upon adjacent coastal  
200 systems and resources; and (J) to maintain the natural relationship  
201 between eroding and depositional coastal landforms and to minimize  
202 the adverse impacts of erosion and sedimentation on coastal land uses  
203 through the promotion of nonstructural mitigation measures.  
204 Structural solutions are permissible when necessary and unavoidable  
205 for the protection of infrastructural facilities, water-dependent uses, or  
206 existing inhabited structures, and where there is no feasible, less  
207 environmentally damaging alternative and where all reasonable  
208 mitigation measures and techniques have been provided to minimize  
209 adverse environmental impacts.

210 (c) In addition to the policies stated in subsections (a) and (b) of this  
211 section, the following policies are established for federal and state

212 agencies in carrying out their responsibilities under this chapter:

213 (1) Policies concerning development, facilities and uses within the  
214 coastal [boundary] area are: (A) To minimize the risk of spillage of  
215 petroleum products and hazardous substances, to provide effective  
216 containment and cleanup facilities for accidental spills and to disallow  
217 offshore oil receiving systems that have the potential to cause  
218 catastrophic oil spills in the Long Island Sound estuary; (B) to disallow  
219 any filling of tidal wetlands and nearshore, offshore and intertidal  
220 waters for the purpose of creating new land from existing wetlands  
221 and tidal or coastal waters which would otherwise be undevelopable,  
222 unless it is found that the adverse impacts on coastal resources are  
223 minimal; (C) to initiate in cooperation with the federal government  
224 and the continuing legislative committee on state planning and  
225 development a long-range planning program for the continued  
226 maintenance and enhancement of federally-maintained navigation  
227 facilities in order to effectively and efficiently plan and provide for  
228 environmentally sound dredging and disposal of dredged materials; to  
229 encourage, through the state permitting program for dredging  
230 activities, the maintenance and enhancement of existing federally-  
231 maintained navigation channels, basins and anchorages and to  
232 discourage the dredging of new federally-maintained navigation  
233 channels, basins and anchorages; (D) to reduce the need for future  
234 dredging by requiring that new or expanded navigation channels,  
235 basins and anchorages take advantage of existing or authorized water  
236 depths, circulation and siltation patterns and the best available  
237 technologies for reducing controllable sedimentation; (E) to disallow  
238 new dredging in tidal wetlands except where no feasible alternative  
239 exists and where adverse impacts to coastal resources are minimal; (F)  
240 to require that new or improved shoreline rail corridors be designed  
241 and constructed so as (i) to prevent tidal and circulation restrictions  
242 and, when practicable, to eliminate any such existing restrictions, (ii) to  
243 improve or have a negligible adverse effect on coastal access and  
244 recreation, and (iii) to enhance or not unreasonably impair the visual  
245 quality of the shoreline; (G) to require that coastal highways and  
246 highway improvements, including bridges, be designed and



247 constructed so as to minimize adverse impacts on coastal resources; to  
248 require that coastal highway and highway improvements give full  
249 consideration to mass transportation alternatives and to require that  
250 coastal highways and highway improvements where possible enhance,  
251 but in no case decrease coastal access and recreational opportunities;  
252 (H) to disallow the construction of major new airports and to  
253 discourage the substantial expansion of existing airports within the  
254 coastal boundary; to require that any expansion or improvement of  
255 existing airports minimize adverse impacts on coastal resources,  
256 recreation or access; (I) to manage the state's fisheries in order to  
257 promote the economic benefits of commercial and recreational fishing,  
258 enhance recreational fishing opportunities, optimize the yield of all  
259 species, prevent the depletion or extinction of indigenous species,  
260 maintain and enhance the productivity of natural estuarine resources  
261 and preserve healthy fisheries resources for future generations; (J) to  
262 make effective use of state-owned coastal recreational facilities in order  
263 to expand coastal recreational opportunities including the  
264 development or redevelopment of existing state-owned facilities where  
265 feasible; (K) to require as a condition in permitting new coastal  
266 structures, including but not limited to, groins, jetties or breakwaters,  
267 that access to, or along, the public beach below mean high water must  
268 not be unreasonably impaired by such structures and to encourage the  
269 removal of illegal structures below mean high water which  
270 unreasonably obstruct passage along the public beach; and (L) to  
271 promote the revitalization of inner city urban harbors and waterfronts  
272 by encouraging appropriate reuse of historically developed  
273 shorefronts, which may include minimized alteration of an existing  
274 shorefront in order to achieve a significant net public benefit, provided  
275 (i) such shorefront site is permanently devoted to a water dependent  
276 use or a water dependent public use such as public access or recreation  
277 for the general public and the ownership of any filled lands remain  
278 with the state or an instrumentality thereof in order to secure public  
279 use and benefit in perpetuity, (ii) landward development of the site is  
280 constrained by highways, railroads or other significant infrastructure  
281 facilities, (iii) no other feasible, less environmentally damaging

282 alternatives exist, (iv) the adverse impacts to coastal resources of any  
283 shorefront alteration are minimized and compensation in the form of  
284 resource restoration is provided to mitigate any remaining adverse  
285 impacts, and (v) such reuse is consistent with the appropriate  
286 municipal coastal program or municipal plan of development.

287 (2) Policies concerning coastal land and other resources within the  
288 coastal [boundary] area are: (A) To manage estuarine embayments so  
289 as to insure that coastal uses proceed in a manner that assures  
290 sustained biological productivity, the maintenance of healthy marine  
291 populations and the maintenance of essential patterns of circulation,  
292 drainage and basin configuration; to protect, enhance and allow  
293 natural restoration of eelgrass flats except in special limited cases,  
294 notably shellfish management, where the benefits accrued through  
295 alteration of the flat may outweigh the long-term benefits to marine  
296 biota, waterfowl, and commercial and recreational finfisheries; and (B)  
297 to maintain, enhance, or, where feasible, restore natural patterns of  
298 water circulation and fresh and saltwater exchange in the placement or  
299 replacement of culverts, tide gates or other drainage or flood control  
300 structures.

301 (d) In addition to the policies in this section, the policies of the state  
302 plan of conservation and development adopted pursuant to part I of  
303 chapter 297 shall be applied to the coastal area [within the coastal  
304 boundary] in accordance with the requirements of section 16a-31.

305 Sec. 3. Section 22a-93 of the general statutes is repealed and the  
306 following is substituted in lieu thereof (*Effective October 1, 2005*):

307 For the purposes of this chapter:

308 (1) "Commissioner" means the Commissioner of Environmental  
309 Protection;

310 (2) "Municipality" means any town listed in subsection (a) of section  
311 22a-94, as amended by this act, the city of Groton, the borough of  
312 Stonington, the borough of Groton Long Point, the borough of

313 Fenwick and the borough of Woodmont, but shall not include any  
314 special district;

315 (3) "Coastal area" means those lands described in subsection (a) of  
316 section 22a-94, as amended by this act;

317 (4) "Coastal boundary" means the boundary described in subsection  
318 (b) of section 22a-94, as amended by this act;

319 (5) "Coastal waters" means those waters of Long Island Sound and  
320 its harbors, embayments, tidal rivers, streams and creeks, which  
321 contain a salinity concentration of at least five hundred parts per  
322 million under the low flow stream conditions as established by the  
323 commissioner;

324 (6) "Public beach" means that portion of the shoreline held in public  
325 fee ownership by the state or that portion of the shoreline below the  
326 mean high tide elevation that is held in public trust by the state;

327 (7) "Coastal resources" means the tidal or coastal waters of the state,  
328 their natural resources, related marine and wildlife habitat and  
329 adjacent shorelands, both developed and undeveloped, that together  
330 form an integrated terrestrial and estuarine ecosystem; coastal  
331 resources include the following: (A) "Coastal bluffs and escarpments"  
332 means naturally eroding shorelands marked by dynamic escarpments  
333 or sea cliffs which have slope angles that constitute an intricate  
334 adjustment between erosion, substrate, drainage and degree of plant  
335 cover; (B) "rocky shorefronts" means shorefront composed of bedrock,  
336 boulders and cobbles that are highly erosion-resistant and are an  
337 insignificant source of sediments for other coastal landforms; (C)  
338 "beaches and dunes" means beach systems including barrier beach  
339 spits and tombolos, barrier beaches, pocket beaches, land contact  
340 beaches and related dunes and sandflats; (D) "intertidal flats" means  
341 very gently sloping or flat areas located between high and low tides  
342 composed of muddy, silty and fine sandy sediments and generally  
343 devoid of vegetation; (E) "tidal wetlands" means "wetland", <sub>2</sub> as defined  
344 [by] in section 22a-29; (F) "freshwater wetlands and watercourses"

345 means "wetlands" and "watercourses", as defined [by] in section 22a-  
346 38; (G) "estuarine embayments" means a protected coastal body of  
347 water with an open connection to the sea in which saline sea water is  
348 measurably diluted by fresh water including tidal rivers, bays, lagoons  
349 and coves; (H) "coastal hazard areas" means those land areas  
350 inundated during coastal storm events or subject to erosion induced by  
351 such events, including flood hazard areas as defined and determined  
352 by the National Flood Insurance Act, as amended (USC 42 Section  
353 4101, P.L. 93-234) and all erosion hazard areas as determined by the  
354 commissioner; (I) "developed shorefront" means those harbor areas  
355 which have been highly engineered and developed resulting in the  
356 functional impairment or substantial alteration of their natural  
357 physiographic features or systems; (J) "island" means land surrounded  
358 on all sides by water; (K) "nearshore waters" means the area comprised  
359 of those waters and their substrates lying between mean high water  
360 and a depth approximated by the ten meter contour; (L) "offshore  
361 waters" means the area comprised of those waters and their substrates  
362 lying seaward of a depth approximated by the ten meter contour; (M)  
363 "shorelands" means those land areas within the coastal boundary  
364 exclusive of coastal hazard areas, which are not subject to dynamic  
365 coastal processes and which are comprised of typical upland features  
366 such as bedrock hills, till hills and drumlins; (N) "shellfish  
367 concentration areas" means actual, potential or historic areas in coastal  
368 waters, in which one or more species of shellfish aggregate;

369 (8) "Zoning commission" means the municipal zoning commission  
370 established under section 8-1 or by any special act or the combined  
371 planning and zoning commission established under section 8-4a;

372 (9) "Planning commission" means the municipal planning  
373 commission established under section 8-19 or by any special act or the  
374 combined planning and zoning commission established under section  
375 8-4a;

376 (10) "Municipal coastal plans" means the plans listed in subsections  
377 (b) and (d) of section 22a-101, as amended by this act;

378 (11) "Municipal coastal regulations" means the regulations and  
379 ordinances listed in subsection (b) of section 22a-101, as amended by  
380 this act;

381 (12) "Federal Coastal Zone Management Act" and "federal act"  
382 means the U.S. Coastal Zone Management Act of 1972, as amended;

383 (13) "Coastal site plans" means the site plans, applications and  
384 project referrals listed in section 22a-105;

385 (14) "Facilities and resources which are in the national interest"  
386 means: (A) Adequate protection of tidal wetlands and related estuarine  
387 resources; (B) restoration and enhancement of Connecticut's shellfish  
388 industry; (C) restoration, preservation and enhancement of the state's  
389 recreational and commercial fisheries, including anadromous species;  
390 (D) water pollution control measures and facilities consistent with the  
391 requirements of the federal Clean Water Act, as amended; (E) air  
392 pollution control measures and facilities consistent with the  
393 requirements of the federal Clean Air Act, as amended; (F) continued  
394 operations of existing federally-funded dredged and maintained  
395 navigation channels and basins; (G) energy facilities serving state-wide  
396 and interstate markets, including electric generating facilities and  
397 facilities for storage, receiving or processing petroleum products and  
398 other fuels; (H) improvements to the existing interstate rail, highway  
399 and water-borne transportation system; (I) provision of adequate state  
400 or federally-owned marine-related recreational facilities, including  
401 natural areas and wildlife sanctuaries; and (J) essential maintenance  
402 and improvement of existing water-dependent military, navigational,  
403 resource management and research facilities;

404 (15) "Adverse impacts on coastal resources" include, but are not  
405 limited to: (A) Degrading water quality through the significant  
406 introduction into [either] tidal or coastal waters or groundwater  
407 supplies of suspended solids, nutrients, toxics, heavy metals or  
408 pathogens, or through the significant alteration of temperature, pH,  
409 dissolved oxygen or salinity; (B) degrading existing circulation  
410 patterns of tidal or coastal waters through the significant alteration of

411 patterns of tidal exchange or flushing rates, freshwater input, or  
412 existing basin characteristics and channel contours; (C) degrading  
413 natural erosion patterns through the significant alteration of littoral  
414 transport of sediments in terms of deposition or source reduction; (D)  
415 degrading natural or existing drainage patterns through the significant  
416 alteration of groundwater flow and recharge and volume of runoff; (E)  
417 increasing the hazard of coastal flooding through significant alteration  
418 of shoreline configurations or bathymetry, particularly within high  
419 velocity flood zones; (F) degrading visual quality through significant  
420 alteration of the natural features of vistas and view points; (G)  
421 degrading or destroying essential wildlife, finfish or shellfish habitat  
422 through significant alteration of the composition, migration patterns,  
423 distribution, breeding or other population characteristics of the natural  
424 species or significant alteration of the natural components of the  
425 habitat; and (H) degrading tidal wetlands, beaches and dunes, rocky  
426 shorefronts, and bluffs and escarpments through significant alteration  
427 of their natural characteristics or function;

428 (16) "Water-dependent uses" means those uses and facilities which  
429 require direct access to, or location in, marine or tidal waters and  
430 which therefore cannot be located inland, including but not limited to:  
431 Marinas, recreational and commercial fishing and boating facilities,  
432 finfish and shellfish processing plants, waterfront dock and port  
433 facilities, shipyards and boat building facilities, water-based  
434 recreational uses, navigation aides, basins and channels, industrial  
435 uses dependent upon water-borne transportation or requiring large  
436 volumes of cooling or process water which cannot reasonably be  
437 located or operated at an inland site and uses which provide general  
438 public access to marine or tidal waters;

439 (17) "Adverse impacts on future water-dependent development  
440 opportunities" and "adverse impacts on future water-dependent  
441 development activities" include but are not limited to (A) locating a  
442 non-water-dependent use at a site that (i) is physically suited for a  
443 water-dependent use for which there is a reasonable demand, or (ii)  
444 has been identified for a water-dependent use in the plan of

445 development of the municipality or the zoning regulations; (B)  
446 replacement of a water-dependent use with a non-water-dependent  
447 use; [L] and (C) siting of a non-water-dependent use which would  
448 substantially reduce or inhibit existing public access to marine or tidal  
449 waters; and

450 (18) "Zoning board of appeals" means the municipal zoning board of  
451 appeals established pursuant to section 8-5 or any special act.

452 Sec. 4. Section 22a-94 of the general statutes is repealed and the  
453 following is substituted in lieu thereof (*Effective October 1, 2005*):

454 (a) The Connecticut coastal area shall include the land and water  
455 within the area delineated by the following: The westerly, southerly  
456 and easterly limits of the state's jurisdiction in Long Island Sound; the  
457 towns of Greenwich, Stamford, Darien, Norwalk, Westport, Fairfield,  
458 Bridgeport, Stratford, Shelton, Derby, Milford, Orange, West Haven,  
459 New Haven, Hamden, North Haven, East Haven, Branford, Guilford,  
460 Madison, Clinton, Westbrook, Deep River, Chester, Haddam,  
461 Middletown, Cromwell, Rocky Hill, Wethersfield, Hartford, Windsor,  
462 Windsor Locks, Suffield, Enfield, East Windsor, South Windsor, East  
463 Hartford, Glastonbury, Portland, East Hampton, East Haddam, Essex,  
464 Old Saybrook, Lyme, Old Lyme, East Lyme, Waterford, New London,  
465 Montville, Norwich, Preston, Ledyard, Groton and Stonington.

466 (b) Within the coastal area, there shall be a coastal boundary which  
467 shall be a continuous line delineated on the landward side by the  
468 interior contour elevation of the one hundred year frequency coastal  
469 flood zone, as defined and determined by the National Flood  
470 Insurance Act, as amended (USC 42 Section 4101, P.L. 93-234), or a one  
471 thousand foot linear setback measured from the mean high water mark  
472 in coastal waters, or a one thousand foot linear setback measured from  
473 the inland boundary of tidal wetlands mapped under section 22a-20,  
474 whichever is farthest inland; and shall be delineated on the seaward  
475 side by the seaward extent of the jurisdiction of the state, except that  
476 the boundary shall not include any land or water area within the town  
477 of Derby, Haddam, Middletown, Cromwell, Rocky Hill, Wethersfield,

478 Hartford, Windsor, Windsor Locks, Suffield, Enfield, East Windsor,  
479 South Windsor, East Hartford, Glastonbury, Portland, East Hampton  
480 or East Haddam.

481 (c) The coastal boundary, as defined in subsection (b) of this section,  
482 shall be shown on maps or photographs prepared by the commissioner  
483 which supplement flood hazard rate maps prepared by the United  
484 States Department of Housing and Urban Development under the  
485 National Flood Insurance Act. Such maps shall be sufficiently precise  
486 to demonstrate whether the holdings of a property owner, or portions  
487 thereof, lie within the coastal boundary. Copies of such maps or  
488 photographs shall be filed with the commissioner and with the clerk of  
489 each coastal municipality.

490 (d) The maps described in subsection (c) of this section shall be  
491 promulgated not later than July 1, 1980. Prior to final adoption of any  
492 map, the commissioner shall hold a public hearing in accordance with  
493 the provisions of chapter 54 within the applicable coastal town. The  
494 commissioner may use interim maps prepared on United States  
495 Geological Survey Topographic base at a scale of one to twenty-four  
496 thousand or their metric equivalent. In preparing such interim maps,  
497 the commissioner may use any man-made structure, natural feature,  
498 property line, preliminary flood hazard boundary maps as prepared  
499 by the United States Department of Housing and Urban Development,  
500 or a combination thereof which most closely approximates the  
501 landward side of the boundary. Further, the commissioner may use  
502 city or town property tax maps or aerial photographs, state tidal  
503 wetlands photographs, or similar maps of property delineation as they  
504 are available.

505 (e) The commissioner may, from time to time, amend such maps  
506 described in subsection (c) of this section. Prior to the adoption of an  
507 amendment to any map, the commissioner shall hold a public hearing  
508 in the affected municipality in accordance with the provisions of  
509 chapter 54. The commissioner shall consider for amendment changes  
510 in the boundary petitioned by the coastal municipality, by any person



511 owning real property within the boundary, or by twenty-five residents  
512 of such municipality. The commissioner shall approve, deny or modify  
513 such petition within sixty days of receipt and shall state, in writing, the  
514 reasons for his action. All amendments to the boundary shall be  
515 consistent with subsection (b) of this section.

516 (f) A municipal coastal boundary may be adopted by the municipal  
517 planning commission of each coastal municipality in accordance with  
518 the notice, hearing and other procedural requirements of section 8-24.  
519 Such boundary may be delineated by roads, property lines or other  
520 identifiable natural or man-made features, provided such boundary  
521 shall approximate and in no event diminish the area within the coastal  
522 boundary, as defined in subsection (b) of this section, and as mapped  
523 under subsection (d) of this section. Such boundary shall be  
524 sufficiently precise to demonstrate whether the holdings of a property  
525 owner, or portions thereof, lie within the boundary. Upon adoption  
526 such boundary shall be submitted to the commissioner for mapping in  
527 accordance with subsection (c) of this section. The municipal planning  
528 commission may, at its own discretion or upon request of a property  
529 owner, amend the coastal boundary in accordance with the procedures  
530 and criteria of this subsection.

531 (g) All property lying within the coastal boundary shall be subject to  
532 the regulatory, development and planning requirements of this  
533 chapter.

534 Sec. 5. Section 22a-99 of the general statutes is repealed and the  
535 following is substituted in lieu thereof (*Effective October 1, 2005*):

536 A coastal municipality may submit written testimony to the  
537 commissioner and may appear by right as a party to any hearing  
538 before said commissioner concerning any permit or license to be issued  
539 by said commissioner for an activity occurring within [the coastal  
540 boundary of] the municipality or occurring within the coastal  
541 boundary of any adjacent municipality and within five hundred feet of  
542 the boundary of such municipality and may appeal any decision of the  
543 commissioner concerning such permit or license.

544 Sec. 6. Section 22a-100 of the general statutes is repealed and the  
545 following is substituted in lieu thereof (*Effective October 1, 2005*):

546 (a) All major state plans, other than the state plan for conservation  
547 and development adopted pursuant to part I of chapter 297, which  
548 affect the coastal area shall be consistent with the goals and policies  
549 stated in section 22a-92, as amended by this act, and existing state  
550 plans, other than the state plan for conservation and development  
551 adopted pursuant to part I of chapter 297, which affect the coastal area  
552 shall, on or before July 1, 1981, be revised, if necessary, to insure  
553 consistency with this chapter. Agencies responsible for revising state  
554 plans, other than the state plan for conservation and development  
555 adopted pursuant to part I of chapter 297, shall consult with the  
556 commissioner in making such revisions.

557 (b) Each state department, institution or agency responsible for the  
558 primary recommendation or initiation of actions within the coastal  
559 [boundary] area which may significantly affect the environment, as  
560 defined in section 22a-1c, shall insure that such actions are consistent  
561 with the goals and policies of this chapter and incorporate all  
562 reasonable measures mitigating any adverse impacts of such actions  
563 on coastal resources and future water-dependent development  
564 activities. The Secretary of the Office of Policy and Management shall  
565 consider the consistency of such proposed actions with such goals and  
566 policies in determining whether or not an environmental impact  
567 evaluation prepared pursuant to section 22a-1b satisfies the  
568 requirements of sections 22a-1a to 22a-1h, inclusive, and regulations  
569 adopted pursuant thereto. The commissioner shall amend such  
570 regulations, if necessary, to insure consistency with the goals and  
571 policies of this chapter.

572 Sec. 7. Section 22a-101 of the general statutes is repealed and the  
573 following is substituted in lieu thereof (*Effective October 1, 2005*):

574 (a) In order to carry out the policies and provisions of this chapter  
575 and to provide more specific guidance to coastal area property owners  
576 and developers, coastal municipalities may adopt a municipal coastal

577 program for the area within the coastal [boundary] area and landward  
578 of the mean high water mark.

579 (b) A municipal coastal program shall include, but is not limited to:  
580 (1) Revisions to the municipal plan of conservation and development  
581 under section 8-23 or special act, insofar as it affects the coastal area,  
582 [within the coastal boundary,] such revisions to include an  
583 identification and written description of the municipality's major  
584 coastal-related issues and problems, both immediate and long-term,  
585 such as erosion, flooding, recreational facilities, and utilization of port  
586 facilities and to include a description of the municipal boards,  
587 commissions and officials responsible for implementing and enforcing  
588 the coastal program, a description of enforcement procedures and a  
589 description of continuing methods of involving the public in the  
590 implementation of the municipal coastal program; (2) revisions to the  
591 municipal zoning regulations under section 8-2 or under special act  
592 and revisions to the following regulations and ordinances if the  
593 municipality has adopted such regulations or ordinances, and insofar  
594 as such regulations or ordinances affect the coastal area: [within the  
595 coastal boundary:] (A) Historic district ordinances under section 7-  
596 147b; (B) waterway encroachment line ordinances under section 7-147;  
597 (C) subdivision ordinances under section 8-25; (D) inland wetland  
598 regulations under subsection (e) of section 22a-42 and section 22a-42a;  
599 (E) sewerage ordinances under section 7-148; (F) ordinances or  
600 regulations governing filling of land and removal of soil, loam, sand or  
601 gravel under section 7-148; (G) ordinances concerning protection and  
602 improvement of the environment under section 7-148; and (H)  
603 regulations for the supervision, management, control, operation or use  
604 of a sewerage system under section 7-247.

605 (c) If a municipality has not yet adopted a municipal plan of  
606 conservation and development under section 8-23, a municipal  
607 planning commission may prepare a municipal coastal plan of  
608 development [solely for that portion of municipality within the coastal  
609 boundary] in accordance with subsection (b) of this section and section  
610 22a-102, as amended by this act.

611 (d) A municipal coastal program may include revisions to the  
612 following municipal plans or programs which revisions shall be  
613 consistent with the municipal plan of conservation and development  
614 revised in accordance with subsection (b) of this section and section  
615 22a-102, as amended by this act: (1) The community development plan  
616 under sections 8-169c and 8-169d; (2) the harbor improvement plan  
617 under section 13b-56; (3) the redevelopment plan under sections 8-125  
618 and 8-127; (4) the port development plan under section 7-329c; (5) the  
619 capital improvement plan under section 8-160; (6) the open space plan  
620 under section 12-107e; (7) any development project plan or plans under  
621 section 8-189; and (8) the municipal water pollution control plan under  
622 section 7-245.

623 (e) Revisions to the municipal plan of development in accordance  
624 with subsection (b) of this section and section 22a-102, as amended by  
625 this act, may include a description of any development projects,  
626 acquisition plans, open space tax abatement programs, flood and  
627 erosion control projects and other nonregulatory measures which the  
628 municipality intends to undertake in order to promote wise  
629 management of coastal resources.

630 Sec. 8. Section 22a-102 of the general statutes is repealed and the  
631 following is substituted in lieu thereof (*Effective October 1, 2005*):

632 (a) In revising the municipal plan of conservation and development  
633 in accordance with subsection (b) of section 22a-101, as amended by  
634 this act, the municipal planning commission shall follow: (1) The  
635 policies and goals in section 22a-92, as amended by this act; (2) criteria  
636 listed in section 8-23.

637 (b) In adopting any proposed municipal plan of conservation and  
638 development, zoning regulations or changes thereto or other  
639 municipal coastal regulations listed in subdivision (2) of subsection (b)  
640 of section 22a-101, as amended by this act, or changes thereto, the  
641 following criteria shall also be considered: (1) The character and  
642 distribution of the coastal resources defined in section 22a-93, as  
643 amended by this act, [within its coastal boundary,] the capacity of and

644 limitations on such resources to support development, and the types  
645 and methods of development compatible with the wise use, protection  
646 and enhancement of such resources; (2) the nature and pattern of  
647 existing development; and (3) the need for public services.

648 (c) The municipal planning commission may revise its municipal  
649 plan of conservation and development by making such changes as:  
650 Modifications of land use categories, changes in the density and  
651 intensity of land use, alteration in plan policies; modifications in  
652 growth strategies, changes in acquisition priorities, and alterations in  
653 public infrastructure, highway and other capital improvement projects.

654 (d) The municipal planning commission shall submit its proposed  
655 revisions to the municipal plan of conservation and development  
656 prepared in accordance with subsections (a) and (b) of this section and  
657 section 22a-101, as amended by this act, to the commissioner and the  
658 regional planning agency for review and comment prior to the final  
659 adoption of such revisions in accordance with section 8-23. Upon  
660 receipt of such proposed revisions the commissioner and the regional  
661 planning agency shall review them for consistency with requirements  
662 and criteria listed in subsections (a) and (b) of this section and said  
663 section 22a-101 and shall within ninety days notify the municipality in  
664 writing of any suggested modifications to the proposed revisions.  
665 Upon receipt of such comments or ninety days after receipt by the  
666 commissioner of proposed revisions, the municipal planning  
667 commission may modify and adopt the proposed revisions in  
668 accordance with said section 8-23.

669 Sec. 9. Section 22a-103 of the general statutes is repealed and the  
670 following is substituted in lieu thereof (*Effective October 1, 2005*):

671 (a) In revising zoning regulations and other municipal coastal  
672 regulations and ordinances listed in subdivision (2) of subsection (b) of  
673 section 22a-101, as amended by this act, the municipal agency with  
674 jurisdiction over such regulations or ordinances shall consider the  
675 criteria in section 8-2 and the other sections of the general statutes or  
676 special act authorizing such regulations. Such regulations shall

677 conform to and effectuate the policies and land and water use  
678 strategies of the municipal coastal plans revised under sections 22a-101  
679 and 22a-102, as amended by this act, and the criteria listed in  
680 subsections (a) and (b) of section 22a-102, as amended by this act.

681 (b) The municipal agency with jurisdiction over the zoning  
682 regulations and other municipal coastal regulations and ordinances  
683 listed in subdivision (2) of subsection (b) of section 22a-101, as  
684 amended by this act, shall submit its proposed revisions of such  
685 regulations and ordinances to the commissioner for his review and  
686 comment prior to final adoption of such revisions in accordance with  
687 the appropriate statutory requirements regarding amendment of such  
688 regulations or ordinances. Upon receipt of the proposed revisions to  
689 the municipal coastal regulations, the commissioner shall review them  
690 for their consistency with the municipality's previously adopted  
691 municipal plan of conservation and development and the criteria listed  
692 in subsections (a) and (b) of section 22a-102, as amended by this act,  
693 and shall within ninety days notify the municipality in writing of any  
694 suggested modifications. Upon receipt of the commissioner's  
695 comments or ninety days after his receipt of proposed revisions the  
696 municipal agency with jurisdiction over such regulations may modify  
697 and adopt the proposed revisions in accordance with the appropriate  
698 statutory requirements regarding amendment of such regulations and  
699 ordinances.

700 (c) In revising zoning regulations under chapter 124 [for the area  
701 within the coastal boundary] the municipal zoning commission may  
702 utilize any lawful zoning techniques, including but not limited to,  
703 modifications of use categories, alteration of density and intensity of  
704 use, special use zones, overlay zones, special permit regulations, sign  
705 controls, design controls, landscaping and gardening regulations,  
706 hazard or geological review requirements, conservation, cluster, open  
707 space and lot coverage requirements, minimum lot sizes, setback  
708 requirements, and bonus and incentive zoning regulations.

709 (d) In revising subdivision regulations under chapter 126 the

710 municipal planning commission may utilize any lawful technique  
711 including, but not limited to, conservation, cluster, open space, park  
712 and recreation regulations.

713 Sec. 10. Section 22a-361 of the general statutes is repealed and the  
714 following is substituted in lieu thereof (*Effective October 1, 2005*):

715 (a) No person, firm or corporation, public, municipal or private,  
716 shall dredge, erect any structure, place any fill, obstruction or  
717 encroachment or carry out any work incidental thereto or retain or  
718 maintain any structure, dredging or fill, in the tidal, coastal or  
719 navigable waters of the state waterward of the high tide line until such  
720 person, firm or corporation has submitted an application and has  
721 secured from said commissioner a certificate or permit for such work  
722 and has agreed to carry out any conditions necessary to the  
723 implementation of such certificate or permit. Each application for a  
724 permit, except for an emergency authorization, for any structure,  
725 filling or dredging which uses or occupies less than five thousand five  
726 hundred square feet in water surface area based on the perimeters of  
727 the project shall be accompanied by a fee equal to eighty cents per  
728 square foot provided such fee shall not be less than five hundred  
729 twenty-five dollars. Each application for a permit for any structure,  
730 filling or dredging which uses or occupies five thousand five hundred  
731 square feet or more but less than five acres in water surface area based  
732 on the perimeters of the project shall be accompanied by a fee of three  
733 thousand three hundred dollars plus ten cents per square foot for each  
734 square foot in excess of five thousand five hundred square feet. Each  
735 application for a permit for any structure, filling or dredging which  
736 uses or occupies five or more acres in water surface area based on the  
737 perimeters of the project shall be accompanied by a fee of nineteen  
738 thousand two hundred twenty-three dollars plus five hundred twenty-  
739 five dollars per acre for each acre or part thereof in excess of five acres.  
740 Each application for a mooring area or multiple mooring facility,  
741 regardless of the area to be occupied by moorings, shall be  
742 accompanied by a fee of five hundred twenty-five dollars provided  
743 that such mooring areas or facilities shall not include fixed or floating

docks, slips or berths. Application fees for aquaculture activities shall not be based on areal extent. The commissioner may waive or reduce any fee payable to him for (1) a tidal wetlands or coastal resource restoration or enhancement activity, (2) experimental activities or demonstration projects, (3) nonprofit academic activities, or (4) public access activities in tidal, coastal or navigable waters, provided no fee shall be waived or reduced for activities required by statute, regulation, permit, order or enforcement action. As used in this section, "resource restoration or enhancement activity" means an action taken to return a wetland or coastal resource to a prior natural condition or to improve the natural functions or habitat value of such resource, but shall not include actions required pursuant to an enforcement action of the commissioner, and "public access activities" means activities whose principal purpose is to provide or increase access for the general public to tidal, coastal or navigable waters, including, but not limited to, boardwalks, boat ramps, observation areas and fishing piers.

(b) The commissioner, at least thirty days before approving or denying an application for a permit, shall provide or require the applicant to provide, by certified mail, return receipt requested, to the applicant, to the Commissioner of Transportation, the Attorney General and the Commissioner of Agriculture and to the chief executive officer, the chairmen of the planning, zoning, harbor management and shellfish commissions of each town in which such structure, fill, obstruction, encroachment or dredging is to be located or work to be performed, and to the owner of each franchised oyster ground and the lessee of each leased oyster ground within which such work is to be performed and shall publish once in a newspaper having a substantial circulation in the area affected, notice of (1) the name of the applicant; (2) the location and nature of the proposed activities; (3) the tentative decision regarding the application; and (4) any additional information the commissioner deems necessary. There shall be a comment period following the public notice during which interested persons may submit written comments. The commissioner may hold a public hearing prior to approving or denying an application if, in the



779 commissioner's discretion, the public interest will best be served by  
780 holding such hearing. The commissioner shall hold a public hearing if  
781 the commissioner receives a petition requesting such hearing that is  
782 signed by twenty-five or more persons and an application will: (A)  
783 Significantly impact any shellfish area, as determined by the director of  
784 the Bureau of Aquaculture at the Department of Agriculture, (B) have  
785 interstate ramifications, or (C) involve any project that requires a  
786 certificate issued pursuant to section 16-50k or approval by the Federal  
787 Energy Regulatory Commission. Following such notice and comment  
788 period and public hearing, if applicable, the commissioner may, in  
789 whole or in part, approve, modify and approve or deny the  
790 application. The commissioner shall provide to the applicant and the  
791 persons set forth above, by certified mail, return receipt requested,  
792 notice of his decision. If the commissioner requires the applicant to  
793 provide the notice specified in this subsection, the applicant shall  
794 certify to the commissioner, no later than twenty days after providing  
795 such notice, that such notice has been provided in accordance with this  
796 subsection.

797 (c) The Commissioner of Environmental Protection may adopt, in  
798 accordance with the provisions of chapter 54, regulations to carry out  
799 the provisions of sections 22a-359 to 22a-363, inclusive. Such  
800 regulations shall establish the procedures for reviewing and acting  
801 upon applications for permits, certificates of permission and  
802 emergency authorizations. The regulations shall be consistent with  
803 sections 22a-28 to 22a-35, inclusive, and regulations adopted  
804 thereunder, sections 22a-90 to 22a-100, inclusive, as amended by this  
805 act, and sections 22a-113k to 22a-113t, inclusive. They shall establish  
806 criteria for granting, denying, limiting, conditioning or modifying  
807 permits giving due regard for the impact of regulated activities and  
808 their use on the tidal, coastal or navigable waters of the state, adjoining  
809 coastal and tidal resources, tidal wetlands, navigation, recreation,  
810 erosion, sedimentation, water quality and circulation, fisheries,  
811 shellfisheries, wildlife, flooding and other natural disasters and water-  
812 dependent use opportunities, as defined in section 22a-93, as amended  
813 by this act. The regulations may provide for consideration of local,

814 state and federal programs affecting tidal, coastal and navigable waters  
815 of the state and the development of the uplands adjacent thereto and  
816 may set forth informational material describing general categories of  
817 regulated activities for the purpose of providing permit applicants  
818 with a more explicit understanding of the regulations. Such  
819 informational material shall be consistent with and shall not increase  
820 the discretion granted to the commissioner under the policies,  
821 standards and criteria contained in sections 22a-359, 22a-92, as  
822 amended by this act, and 22a-93, as amended by this act, and this  
823 section.

824 (d) (1) The Commissioner of Environmental Protection may issue a  
825 general permit for any minor activity regulated under sections 22a-28  
826 to 22a-35, inclusive, or sections 22a-359 to 22a-363f, inclusive, if the  
827 commissioner determines that such activity would (A) cause minimal  
828 environmental effects when conducted separately, (B) cause only  
829 minimal cumulative environmental effects, (C) not be inconsistent with  
830 the considerations and the public policy set forth in sections 22a-28 to  
831 22a-35, inclusive, and section 22a-359, as applicable, (D) be consistent  
832 with the policies of the Coastal Management Act, and (E) constitute an  
833 acceptable encroachment into public lands and waters. Such activities  
834 may include routine minor maintenance and routine minor repair of  
835 existing structures, fill, obstructions, encroachments or excavations;  
836 substantial maintenance consisting of rebuilding, reconstructing or  
837 reestablishing to a preexisting condition and dimension any structure,  
838 fill, obstruction, encroachment or excavation; maintenance dredging of  
839 areas which have been dredged and continuously maintained as  
840 serviceable; activities allowed pursuant to a perimeter permit; the  
841 removal of structures, derelict vessels, debris, rubbish or similar  
842 discarded material or unauthorized fill material; minor alterations or  
843 amendments to authorized activities consistent with the authorization  
844 for such activities; activities which have been required or allowed by  
845 an order of the commissioner; open water marsh management by or  
846 under the supervision of the Department of Public Health or  
847 Department of Environmental Protection; conservation activities of or  
848 under the supervision or direction of the Department of

849 Environmental Protection; construction of individual residential docks  
850 which do not create littoral or riparian conflicts, navigational  
851 interference, or adverse impacts to coastal resources, as defined [by] in  
852 section 22a-93, as amended by this act, which are not located in tidal  
853 wetlands as defined by section 22a-29 and which extend no further  
854 than forty feet waterward of mean high water or to a depth of minus  
855 four feet mean low water, whichever point is more landward;  
856 installation of scientific measuring or monitoring devices; survey  
857 activities including excavation of test pits and core sampling and  
858 driving of test pilings; construction of utility lines; aquacultural  
859 activities; and installation and removal of small seasonal structures  
860 including floats and moorings. Any person conducting an activity for  
861 which a general permit has been issued shall not be required to obtain  
862 an individual permit or certificate under any other provision of  
863 sections 22a-28 to 22a-35, inclusive, or sections 22a-359 to 22a-363f,  
864 inclusive, for that activity except as provided in subdivision (3) of this  
865 subsection. A general permit shall clearly define the activity covered  
866 thereby and may include such conditions and requirements as the  
867 commissioner deems appropriate, including, but not limited to,  
868 construction timing, methodologies and durations, resource protection  
869 practices, management practices, and verification and reporting  
870 requirements. The general permit may require any person proposing  
871 to conduct any activity under the general permit to register such  
872 activity, including obtaining approval from the commissioner, before  
873 the general permit becomes effective as to such activity. Registrations  
874 and applications for approval under the general permit shall be  
875 submitted on forms prescribed by the commissioner. Any approval by  
876 the commissioner under a general permit may include conditions  
877 specific to the proposed activity to ensure consistency with the  
878 requirements for issuance of the general permit. The commissioner  
879 shall prepare, and annually amend, a list of holders of general permits  
880 under this section, which list shall be made available to the public.

881 (2) Notwithstanding any other procedures specified in sections 22a-  
882 28 to 22a-35, inclusive, and sections 22a-359 to 22a-363f, inclusive, any  
883 regulations adopted thereunder, and chapter 54, the commissioner

884 may issue a general permit in accordance with the following  
885 procedures: (A) The commissioner shall publish in a newspaper  
886 having a substantial circulation in the affected area or areas notice of  
887 intent to issue a general permit; (B) the commissioner shall allow a  
888 comment period of thirty days following publication of such notice  
889 during which interested persons may submit written comments  
890 concerning the permit to the commissioner and the commissioner shall  
891 hold a public hearing if, within said comment period, he receives a  
892 petition signed by at least twenty-five persons; (C) the commissioner  
893 may not issue the general permit until after the comment period; (D)  
894 the commissioner shall publish notice of any permit issued in a  
895 newspaper having substantial circulation in the affected area or areas;  
896 and (E) summary suspension may be ordered in accordance with  
897 subsection (c) of section 4-182. Any person may request that the  
898 commissioner issue, modify or revoke a general permit in accordance  
899 with this subsection.

900 (3) Subsequent to the issuance of a general permit, the commissioner  
901 may require any person whose activity is or may be covered by the  
902 general permit to apply for and obtain an individual permit or  
903 certificate under the provisions of sections 22a-28 to 22a-35, inclusive,  
904 or sections 22a-359 to 22a-363f, inclusive, for all or any portion of the  
905 activities covered by the general permit, if the commissioner  
906 determines that an individual permit is necessary to assure consistency  
907 with purposes and policies of such sections, and the Coastal  
908 Management Act. The commissioner may require an individual permit  
909 under this subdivision in cases including, but not limited to, the  
910 following: (A) The permittee is not in compliance with the conditions  
911 of the general permit; (B) an individual permit or certificate is  
912 appropriate because of circumstances specific to the site; (C)  
913 circumstances have changed since the time the general permit was  
914 issued so that the permitted activity is no longer acceptable under the  
915 general permit; or (D) a change has occurred in relevant law. The  
916 commissioner may require an individual permit or certificate under  
917 this section only if the affected person has been notified in writing that  
918 an individual permit or certificate is required. The notice shall include

919 a brief statement of the reasons for the decision.

920 (4) The commissioner may adopt regulations, in accordance with the  
921 provisions of chapter 54, to carry out the purposes of this section.

922 [(5) Notwithstanding any provision of sections 22a-359 to 22a-363f,  
923 inclusive, pending issuance of a general permit for aquaculture  
924 activities by the commissioner in accordance with this section, no  
925 permit or certificate shall be required for the placement, maintenance  
926 or removal of (A) individual structures used for aquaculture, as  
927 defined in section 22-416, including, but not limited to, cages or bags,  
928 which are located on designated state or municipal shellfish beds  
929 which structures create no adverse impacts on coastal resources or  
930 navigation over their location or (B) any buoys used to mark such  
931 structures. Upon issuance of a general permit for aquaculture activities  
932 in accordance with this section, any aquaculture activities shall comply  
933 with the terms of such general permit or other applicable provisions of  
934 sections 22a-359 to 22a-363f, inclusive.]

935 (e) No person, firm or corporation, public, municipal or private,  
936 who removes sand, gravel or other material lying waterward of the  
937 mean high water mark of the tidal, coastal or navigable waters of the  
938 state pursuant to a permit issued under this section on or after October  
939 1, 1996, shall make any beneficial or commercial use of such sand,  
940 gravel or other material except upon payment to the state of a fee of  
941 four dollars per cubic yard of such sand, gravel and other materials.  
942 Such payment shall be made at times and under conditions specified  
943 by the commissioner in such permit, except that the commissioner may  
944 waive such payment in the case of beneficial or commercial use of  
945 sand, gravel or other materials that are decontaminated or processed to  
946 meet applicable remedial standards for reuse. No fee shall be assessed  
947 for (1) the performance of such activities on land which is not owned  
948 by the state, (2) the use of sand, gravel or other materials for beach  
949 restoration projects, or (3) ultimate disposal of such sand, gravel or  
950 other materials which does not result in an economic benefit to any  
951 person. For the purposes of this section, "beneficial or commercial use"

952 includes, but is not limited to, sale or use of sand, gravel or other  
953 materials for construction, aggregate, fill or landscaping.

954 (f) When any damage may arise to any person, firm or corporation  
955 from the taking of sand, gravel or other material as provided in  
956 subsection (e) of this section and the applicant authorized by the  
957 commissioner to take sand, gravel or other material cannot agree with  
958 such person, firm or corporation as to the amount of damage which  
959 may result from such taking, the commissioner shall require the  
960 applicant, as a condition precedent to the taking of sand, gravel or  
961 material pursuant to any permit hereunder, to post bond, with good  
962 and sufficient surety, or to deposit such sum with the State Treasurer,  
963 for the protection of any person, firm or corporation claiming damage  
964 which may result from such taking, as the commissioner determines  
965 sufficient to cover all damages, including interest from the date of the  
966 taking, which could reasonably result to any person, firm or  
967 corporation from such taking.

968 (g) The procedure for the subsequent determination of the amount  
969 of actual damage shall be as follows: The commissioner shall prefer a  
970 petition to the superior court for the judicial district of Hartford or to a  
971 judge thereof in vacation, praying that the amount of such damage  
972 may be determined. Such petition shall be accompanied by a summons  
973 signed by competent authority, to be served as process in civil action  
974 before said court, notifying the applicant and any person, firm or  
975 corporation claiming damage from the taking, to appear before said  
976 court or such judge, and thereupon said court or judge shall appoint a  
977 committee of three disinterested persons, one of whom may be a state  
978 referee, who shall be sworn before commencing their duties. Such  
979 committee, after giving reasonable notice to all parties of the time and  
980 place of hearing, shall hear and receive evidence from all parties  
981 concerning the damage and shall make an award. Such committee  
982 shall make a report of its doings and the award to said court or such  
983 judge, who may accept such report or reject it for irregular or improper  
984 conduct by the committee in the performance of its duties. If the report  
985 is rejected, the court or judge shall appoint another committee, which

986 shall proceed in the same manner as the first committee was required  
987 to proceed. If the report is accepted, such acceptance shall have the  
988 effect of a judgment and the applicant shall pay the amount of any  
989 such award to the clerk of the Superior Court for the account of the  
990 persons entitled thereto within sixty days after the judgment is entered  
991 or, in the case of an appeal, after the final judgment. Any party may,  
992 within sixty days, appeal such judgment in the manner provided by  
993 law.

994 Sec. 11. Section 22a-361a of the general statutes is repealed and the  
995 following is substituted in lieu thereof (*Effective October 1, 2005*):

996 Any person who violates, continues or maintains any violation of  
997 any provision of sections 22a-359 to 22a-363f, inclusive, as amended by  
998 this act, or violates, continues or maintains a violation of any term or  
999 condition of any permit, certificate, authorization or order issued  
1000 pursuant to said sections shall be liable for a civil penalty of not more  
1001 than [one] twenty-five thousand dollars for each offense. Each  
1002 violation shall be a separate and distinct offense and in the case of a  
1003 continuing violation each day's continuance thereof shall be deemed to  
1004 be a separate and distinct offense subject to an additional civil penalty  
1005 of not more than one thousand dollars per day. The Commissioner of  
1006 Environmental Protection may request the Attorney General to bring a  
1007 civil action in the superior court for the judicial district of Hartford to  
1008 seek imposition and recovery of such civil penalty.

1009 Sec. 12. Section 22a-97 of the general statutes is repealed and the  
1010 following is substituted in lieu thereof (*Effective October 1, 2005*):

1011 (a) The commissioner shall provide, within available  
1012 appropriations, technical, coordinating and research services to  
1013 promote the effective administration of this chapter at the federal, state  
1014 and local levels.

1015 (b) The commissioner shall have the overall responsibility for  
1016 general supervision of the implementation of this chapter and shall  
1017 monitor and evaluate the activities of federal and state agencies and

1018 the activities of municipalities to assure continuing, effective,  
1019 coordinated and consistent administration of the requirements and  
1020 purposes of this chapter.

1021 [(c) The commissioner shall prepare and submit to the General  
1022 Assembly and the Governor, on or before December first of each year,  
1023 a written report summarizing the activities of the department  
1024 concerning the development and implementation of this chapter  
1025 during the previous year. Such report shall include, but not be limited  
1026 to: (1) The department's accomplishments and actions in achieving the  
1027 goals and policies of this chapter including, but not limited to,  
1028 coordination with other state, regional, federal and municipal  
1029 programs established to achieve the purposes of this chapter and  
1030 research programs established pursuant to subsection (a) of section  
1031 22a-112; (2) recommendations for any statutory or regulatory  
1032 amendments necessary to achieve such purposes; (3) a summary of  
1033 municipal and federal programs and actions which affect the coast; (4)  
1034 recommendations for any programs or plans to achieve such purposes;  
1035 (5) any aspects of the program or the chapter which are proving  
1036 difficult to accomplish, suggested reasons for such difficulties and  
1037 proposed solutions to such difficulties; (6) a summary of the  
1038 expenditure of federal and state funds under this chapter; and (7) a  
1039 request for an appropriation of funds necessary to match federal funds  
1040 and provide continuing financial support for the program. Such report  
1041 shall comply with the provisions of section 46a-78. On and after  
1042 October 1, 1996, the report shall be submitted to the joint standing  
1043 committee of the General Assembly having cognizance of matters  
1044 relating to the environment and, upon request, to any member of the  
1045 General Assembly. A summary of the report shall be submitted to each  
1046 member of the General Assembly if the summary is two pages or less  
1047 and a notification of the report shall be submitted to each member if  
1048 the summary is more than two pages. Submission shall be by mailing  
1049 the report, summary or notification to the legislative address of each  
1050 member of the committee or the General Assembly, as applicable.]



This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2005</i>	22a-91
Sec. 2	<i>October 1, 2005</i>	22a-92
Sec. 3	<i>October 1, 2005</i>	22a-93
Sec. 4	<i>October 1, 2005</i>	22a-94
Sec. 5	<i>October 1, 2005</i>	22a-99
Sec. 6	<i>October 1, 2005</i>	22a-100
Sec. 7	<i>October 1, 2005</i>	22a-101
Sec. 8	<i>October 1, 2005</i>	22a-102
Sec. 9	<i>October 1, 2005</i>	22a-103
Sec. 10	<i>October 1, 2005</i>	22a-361
Sec. 11	<i>October 1, 2005</i>	22a-361a
Sec. 12	<i>October 1, 2005</i>	22a-97

**ENV**      *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

### **OFA Fiscal Note**

#### **State Impact:**

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Department of Environmental Protection	GF - Revenue Gain/ Savings	Potential	Potential
Various	GF - Revenue Gain/Cost	Potential	Potential

Note: GF=General Fund

**Municipal Impact:** None

#### **Explanation**

The bill applies certain aspects of the Coastal Area Management Act to the entire town and adds 18 river municipalities to the current 36 coastal towns. This change is anticipated to result in a minimal increase in workload to the Department of Environmental Protection (DEP), within resources, to modify agency plans and development proposals. This could allow the DEP to be eligible for an increase in federal coastal management funds and may make the newly defined coastal area towns eligible for federal pass-through funds. The exact impact is not known. Since revision of planning and zoning ordinances and conservation and development plans by the new municipalities is discretionary it is anticipated that towns would take on the responsibilities when resources permit.

Waiving the fee for removing sand or gravel from an area waterward of the high water mark, if the material is decontaminated or processed to meet remedial standards for reuse, has no net fiscal impact.

The increase in the fine and penalty is anticipated to minimally increase revenue to the general fund.

**OLR Bill Analysis**

HB 6782

***AN ACT CONCERNING LONG ISLAND SOUND PROGRAMS AND  
THE DEFINITION OF THE COASTAL AREA*****SUMMARY:**

The Coastal Management Act (act) sets goals and policies to balance development and protection of the state's coastal resources. It requires that state agency actions be consistent with those policies in areas the law designates as "coastal areas," and establishes standards by which state and local authorities must review certain activities within "coastal boundaries."

This bill expands the application of the act in three ways. First, it applies certain of the act's provisions to coastal areas, which include entire towns, rather than the more narrowly defined coastal boundaries. Second, it adds 17 Connecticut River municipalities and one Housatonic River town to the 36 towns the law considers coastal areas. Third, it expands the act to cover tidal, as well as coastal, resources.

The bill requires certain state and federal agency actions to be consistent with the act's goals and policies throughout the 54 towns, rather than within the coastal boundaries of 36 towns. It requires certain state agency actions in coastal towns, rather than areas just within the coastal boundary, to also be consistent with the state plan of conservation and development .

It authorizes, but does not require, the 18 newly added towns to revise their planning and zoning ordinances, plans of conservation and development and other regulations and ordinances to be consistent with the act's requirements.

The bill makes changes to aquaculture laws that have limited legal effect because the bill does not amend another law.

The bill also:

1. authorizes the DEP commissioner to waive fees for the removal of sand and gravel from the bed of the state's tidal, coastal or navigable waters in certain instances;
2. increases, from \$1,000 to \$25,000, the maximum fine for violating DEP dredging laws or permits, certificates, authorizations or orders; and
3. eliminates a requirement that the DEP commissioner submit an annual report on the development and implementation of the coastal management program.

EFFECTIVE DATE: October 1, 2005

### **COASTAL MANAGEMENT ACT**

The Coastal Management Act establishes goals to ensure that coastal land and water resources are developed in a way that: (1) does not significantly disrupt the natural environment or sound economic growth; (2) preserves and enhances those resources; and (3) gives high priority and preference to "water-dependent" uses, including commercial and recreational fishing and water-based recreation.

It establishes policies for federal, state, and local agencies to follow within a town's coastal boundary, which is the furthest inland of (1) the 100-year-frequency coastal flood zone, (2) a 1,000-foot setback from the mean high-water mark, or (3) a 1,000-foot setback from the inland boundary of the tidal wetlands.

### **COASTAL AREAS**

Under current law, coastal areas include the land and water within 36 coastal towns. Each of these towns has within it a coastal boundary.

The bill expands the number of coastal areas to include the towns of Cromwell, Derby, East Haddam, East Hampton, East Hartford, East Windsor, Enfield, Glastonbury, Haddam, Hartford, Middletown, Portland, Rocky Hill, South Windsor, Suffield, Wethersfield, Windsor, and Windsor Locks. But the bill exempts these towns from the law's regulatory provisions. Under the bill, the newly added towns are also considered coastal municipalities.

***State Programs and Agency Actions***

By law, all major state plans, other than the Plan of Conservation and Development, that affect the coastal area must be consistent with the act's goals and policies. The bill requires state agencies to revise the plans to ensure consistency in each of the 54 coastal area towns, rather than just within the coastal boundary of the 36 towns. The bill applies State Plan of Conservation and Development policies concerning state agency actions using state or federal funds to coastal areas, rather than just to lands and waters within the coastal boundary, but does not require that the Plan of Conservation and Development be consistent with the act.

It requires each state agency responsible for the primary recommendation or initiation of actions within the coastal area, rather than the coastal boundary, that may significantly affect the environment, to ensure that its actions are consistent with the goals of the act, and to incorporate all reasonable measures to mitigate any adverse impacts on coastal resources and water-dependent development activities.

***DEP Permit and License Hearing Procedure***

By law, a coastal municipality may submit written testimony to the DEP commissioner and may appear as a party to any hearing before her concerning a permit or license issued for an activity occurring within the town's coastal boundary. The bill instead permits the town to submit such testimony concerning a permit or license issued for an activity within any part of the town. As by law, the town also may submit such testimony for any activity occurring within the coastal boundary of any neighboring town, and within 500 feet of the first town's border.

**MUNICIPAL COASTAL PROGRAMS**

The bill authorizes coastal area towns to adopt a municipal coastal program for the entire town, rather than just for the land within the coastal boundary. Such a program must include revisions that affect the town, rather than just area within the coastal boundary, with regard to the municipal plan of conservation and development; local

zoning regulations; and to the following regulations or ordinances, if a town has adopted them:

1. historic district ordinances;
2. waterway encroachment line ordinances;
3. subdivision ordinances;
4. inland wetland regulations;
5. sewerage ordinances;
6. ordinances or regulations governing the filling of land and removal of soil, loam, sand, or gravel;
7. ordinances concerning protection and improvement of the environment; and
8. regulations for the supervision, management, control, operation, or use of a sewerage system.

A municipal coastal program may include revisions to the following town plans (1) community development; (2) harbor improvement; (3) redevelopment; (4) port development; (5) capital improvement; (6) open space; (7) development project; and (8) municipal water control. The revisions must be consistent with the municipal plan of conservation and development.

### ***Municipal Plan of Conservation and Development***

By law, the revisions to the municipal conservation and development must include: identification and a written description of the town's major coastal-related issues and problems, both immediate and long-term, such as erosion, flooding, recreational facilities, and use of port facilities. It must include a description of (1) the local boards, commissions and officials responsible for implementing the coastal program; (2) enforcement procedures; and (3) continuing methods of involving the public in the program's implementation.

Revisions to the municipal development plan also may include a description of any development projects, acquisition plans, open space

tax abatement programs, flood and erosion control projects, and other non-regulatory measures that the town intends to begin to promote wise management of coastal resources.

Under current law, municipalities, in adopting a municipal plan of conservation and development, zoning regulations, or other coastal regulations, must consider the character and distribution of coastal resources within their coastal boundaries, the capacity of and limitations on such resources to support development, and types and methods of development compatible with the wise use, protection, and enhancement of such resources; the nature and pattern of existing development; and the need for public services.

The bill requires all towns subject to tidal waters to consider such impacts on tidal waters, and to do so for the entire town.

As by law, the planning commission must submit its proposed revisions to the DEP commissioner for review and comment before they are finally adopted.

The bill repeals a law authorizing a town to adopt a municipal plan of development just for that portion of the town within the coastal boundary.

### ***Revising Zoning Regulations***

In revising zoning regulations under the bill, the zoning commission must consider state law regarding zoning regulations, and other laws authorizing the regulations. The revised regulations must conform to, and carry out the policies and land- and water- use strategies of the municipal coastal plan revised according to the bill, as well as the criteria the bill sets out. As by law, the zoning commission must submit its proposed revisions to the DEP commissioner for review and comment before they are finally adopted.

Current law authorizes municipal zoning commissions to use any lawful zoning techniques, such as special use zones and minimum lot sizes, in revising the regulations for the coastal boundary. The bill allows the commissions to use such techniques anywhere within the town.

## **TIDAL WATERS**

By law, coastal waters include tidal rivers, streams, and creeks with a salinity concentration of at least 500 parts per million under low-flow stream conditions the commissioner establishes. However, the bill also specifically:

1. makes unreasonable restriction of physical or visual access to tidal waters grounds for restricting or excluding certain facilities or uses;
2. requires state, federal, and local agencies to require that structures in tidal waters be designed, built, and maintained to minimize adverse impacts on coastal resources, and to encourage increased recreational boating use of tidal waters;
3. makes it state policy to disallow any filling of tidal wetlands and other state waters for the purpose of creating new land from existing tidal waters that would otherwise not be able to be developed, unless it would cause minimal adverse effects to coastal resources; and
4. expands adverse impacts on coastal resources to include degrading water quality by introducing into tidal waters suspended solids, toxics or heavy metals, and degrading circulation patterns of tidal waters through the significant alteration of patterns of tidal exchange or flushing rates.

## **AQUACULTURE**

By law, any person, firm, or corporation that removes sand or gravel from an area waterward of the high water mark in state waters must obtain a DEP permit and pay the state \$4 per cubic yard. The bill authorizes the commissioner to waive the payment in the case of sand or gravel sold or used for construction, aggregate, fill, or landscaping, if the material is decontaminated or processed to meet remedial standards for reuse.

The bill subjects to DEP permitting requirements the placement, maintenance or removal of (1) individual structures used in aquaculture, including cages or bags located on designated state or local shellfish beds that do not cause adverse impacts on coastal resources or navigation, and (2) any buoys used to mark such



structures. But these structures and buoys remain exempt from these permitting requirements under another law, which remains unchanged.

The bill repeals a requirement that aquaculture activities comply with the terms of a DEP general permit once DEP issues one. But another law, which remains unchanged, gives the Agriculture Department, rather than the DEP, exclusive authority to grant most aquaculture permits.

### **PENALTY INCREASED**

The bill increases, from \$1,000 to \$25,000, the maximum fine for anyone who violates the law or any term or condition of a DEP permit, certificate, authorization, or order regarding dredging, erecting any structure or planning any fill, obstruction, or encroachment in the tidal, coastal, or navigable waters of the state waterward of the high tide line.

By law, each violation, and each day it continues, is considered a separate and distinct offense. The bill authorizes an additional civil penalty of up to \$1,000 a day for each day the violation continues.

### **BACKGROUND**

#### ***Tidal Waters***

Tidal waters are waters subject to the ebb and flow of the tide, such as rivers.

#### ***Actions That May Significantly Affect the Environment***

By law, an action is an individual activity or sequence of planned activities proposed by state departments, institutions, or agencies, or funded in whole or in part by the state. An action affecting the environment is one that could (1) have a major impact on the state's land, water, air, certain historic landmarks and structures, existing housing or other environmental resources, or (2) serve short-term to the disadvantage of long-term environmental goals. It does not include emergency measures undertaken in response to an immediate threat to public health or safety, or ministerial activities involving no exercise of discretion on the state agency's part.

***Coastal Zone Management Act***

The state's coastal management act was adopted under the federal Coastal Zone Management Act, which gives the state power to regulate certain federal actions under state law.

**COMMITTEE ACTION**

Environment Committee

Joint Favorable Report

Yea 28      Nay 0